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TAGS: [KTIP](#) [PREL](#) [KCRM](#) [KWMN](#) [PHUM](#) [SMIG](#) [RP](#)
SUBJECT: PHILIPPINES: TIP TIER 2 WATCH LIST ACTION PLAN
(2009-2010)

REF: A. A. 2008 STATE 132759
[1](#)B. B. 2007 STATE 150188
[1](#)C. C. 2009 STATE 005577
[1](#)D. D. 2009 STATE 62182

[1](#)1. (U) This is an action request (see paras 2-4).

[1](#)2. (SBU) Begin action request: Drawing from points in para 8, Post is requested to approach appropriate host government officials to highlight the United States' strong commitment to continue to work with the Government of Philippines to help strengthen its efforts to combat and prevent trafficking in persons (TIP) and to assist victims. Post is requested to convey the recommendations in para 9 as a non-paper and draw from the talking points in para 8 to explain to the host government the need for prompt action on the first set of recommendations for a positive review in the interim assessment that the Department will release to Congress by February 2010 and for movement out of the Tier 2 Watch List in next year's Report. Additional recommendations are also included in para 9 to aid the host government in making progress in its overall anti-TIP efforts. The notes indicated in brackets in the action plan are for post's background only and may be omitted from the non-paper. The Implementation Guidelines⁸ referenced in the action plan notes are contained in reftel B. These guidelines provide guidance to posts on how the Minimum Standards of the Trafficking Victims Protection Act, as amended, (TVPA) are implemented, and have been cleared by regional bureaus.

[1](#)3. (SBU) Action request continued: Post is further requested to emphasize to the Government of Philippines that the first set of recommendations is designed to help remedy the specific shortcomings identified in the 2009 TIP Report that resulted in the placement of the Philippines on the Tier 2 Watch List. These recommendations are often referred to as "high-priority" items for Tier 2 Watch List removal. However, sustained and significant anti-trafficking efforts by the government throughout the year will remain the basis for determining next year's tier placement. The interim assessment for Special Watch List countries (to include Tier 2 Watch List countries) will provide a progress report regarding the government's actions to address the short list recommendations designed to address the concerns that resulted in the country's placement on the Tier 2 Watch List in the 2009 TIP Report (high-priority items), but there will be no changes in tier ratings at that time. We will reconsider the government's tier placement when we conduct our annual full assessment for the March 2009-2010 reporting period next spring.

[1](#)4. (SBU) Action request continued: The Department recognizes that Post may choose to use this opportunity to provide additional recommendations, beyond the recommendations for moving out of the Tier 2 Watch List. In such a case, we request that Post make clear to the government which are the "high-priority" items to move off of the Tier 2 Watch List. The non-paper in para 9 includes both "high-priority" recommendations for Tier 2 Watch List removal

and further-reaching goals for longer-term success in combating trafficking in persons in all 3 P areas: Prosecution, Protection, and Prevention. (For posts, background information: G/TIP will be asking for posts to report on the country's progress in meeting these recommendations by no later than November 15, 2009, in order to compile narratives for the interim assessment.)

15. (SBU) In preparation for the interim assessment and 2010 TIP Report, the Department is asking posts to work with host governments throughout the year to collect as many statistics as possible on law enforcement actions and judicial proceedings related to TIP crimes, specifically the Department requests data on investigations, prosecutions, convictions, and sentences (e.g., fines, probation, length of prison sentences imposed, asset seizure information when available). Whether a government collects and provides this data consistent with the government's capacity to obtain such data is considered in determining whether the government qualifies for Tier 1. Law enforcement statistics, when available, are a good way of highlighting how well a government enforced its law and demonstrates strengths and weaknesses in various approaches. Please note that host governments and embassies must interpret data terms provided by host governments such as indictments, charges, cases disposed, cases submitted for prosecution, etc., to ensure that they fit into one of the following categories: investigations, prosecutions, convictions or sentences.

The Department cannot accept "trafficking-related" law enforcement statistics (e.g, statistics on prostitution or smuggling offenses) because their direct correlation to trafficking crimes is not clear. The Department will accept only law enforcement data that fall into the following categories: (1) investigations, prosecutions, convictions, and sentences for offenses that are explicitly defined as trafficking; and (2) investigations, prosecutions, convictions, and sentences for offenses that are not defined explicitly as trafficking but in which the competent law enforcement or judicial authority has specific evidence indicating that the defendant was involved in trafficking.

16. (SBU) The Department is also asking Posts to engage with host governments on efforts to address amendments made by the 2008 Trafficking Victims Protection Reauthorization Act (TVPRA). As indicated in reftel C, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 3. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

17. (SBU) Please keep in mind the TIP Report measures host government efforts. In order for anti-trafficking activities financed or conducted principally by parties outside the government to be considered for tier placement purposes, Post needs to demonstrate a concrete role or tangible value-added by a host government in such activities carried out by NGOs, international organizations, or posts.

18. (U) Background Points:

Begin talking points:

-- The Obama Administration views the fight against human trafficking, both at home and abroad, as a critical piece of our foreign policy agenda. We are committed to making progress on this issue in the months ahead by working closely with partners in every country.

-- The U.S. Government's Trafficking Victims Protection Act requires the State Department to submit an annual report to Congress on the status of foreign governments, efforts to combat trafficking in persons. Pursuant to the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), the Department created a special category for Tier 2 countries that do not show increasing efforts from the previous year, have a very significant number of victims, or whose Tier 2 rating is based on commitments to take additional steps over the next year.

-- Also as mandated by the TVPRA, by February 2010 the Department will submit to Congress an interim assessment. At the end of 2009 in preparation for that submission, the Department will conduct an assessment of Tier 2 Watch List countries' progress in responding to the specific issues of concern that resulted in the Tier 2 Watch List rating.

-- The Philippines was placed on Tier 2 Watch List in this year's Report because of a lack of evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year.

-- We offer the following recommended actions (Action Plan for the Short-term) to tackle specific shortcomings highlighted in the 2009 TIP Report. We believe these to be within the reasonable ability of your government to fulfill in the near-term and encourage you to take prompt action for a positive narrative in the interim assessment. New tier evaluations will not occur at the interim assessment. We will reconsider a government's tier placement when we conduct our annual full assessment for the 2009-2010 reporting period next spring. Prompt, appropriate, and significant actions will lead to a more favorable tier placement; conversely, failure to address the issues mentioned above may lead to a Tier 3 placement.

-- We would welcome the Government of Philippines, comments on these recommendations and any other ideas you might have to advance our common struggle against trafficking in persons.

-- In addition to the short list of recommendations corresponding to our concerns that resulted in your government's placement on the Tier 2 Watch List in the 2009 TIP Report, we offer additional suggestions of actions that your government may choose to take (Action Plan for the Long term). These further measures would be in addition to the Philippines, continuation of its current efforts to combat trafficking in persons.

End talking points.

19. (SBU) Begin Action Plan:

1I. Action Plan for the Short-Term: The following are recommended measures for a positive interim assessment in January 2010 and in the broader assessment of government efforts during the reporting period:

1A. Significantly increase the number of criminal prosecutions and criminal convictions in human trafficking cases, including cases of forced labor.

-- Persons convicted in trafficking cases should receive prison sentences sufficiently stringent to deter future crimes and adequately reflective of the heinous nature of the crime. (Note to Post: A majority of sentences should involve imprisonment of one year or more, taking into consideration other factors such as the severity of the individual's involvement in trafficking.)

-- Punishments limited to administrative penalties such as bans on future hiring, fines, and payment of back-wages to victims are not considered sufficient.

1B. Significantly increase efforts to address trafficking-related corruption among officials and share

information on efforts to investigate, prosecute, convict and sentence officials complicit in trafficking in persons.

¶C. Include anti-trafficking elements in training programs for police and other law enforcement personnel, including lower and higher level ranked officers. Such training should address trafficking-related corruption and penalties associated with such crimes.

¶D. Expand training programs to educate and sensitize law enforcement officers, judges, prosecutors, and other government officials about human trafficking, the proactive identification of trafficking victims, and the effective and victim-sensitive handling of both sex and labor trafficking cases.

¶E. Ensure that MOU,s with foreign countries hiring workers from the Philippines are abided by and that workers are being adequately protected while abroad.

Other areas we believe the Philippines could consider for action to boost its anti-trafficking efforts:

Prosecution

--To facilitate the timely completion of trafficking prosecution, dedicate increased resources to the investigation and prosecution of trafficking cases, such as dedicated anti-trafficking investigators and prosecutors, , and/or increased funding levels to anti-trafficking law enforcement entities..

-- Increase efforts to engage governments of destination countries through law enforcement channels in the investigation and prosecution of trafficking offenders, and to share relevant information.

Protection

-- Devote increased resources to victim protection, including funding for additional trafficking shelters and/or other appropriate alternatives and housing for trafficking victims (i.e. temporary housing or hotels), training for shelter workers, counseling, medical, and other rehabilitation assistance for trafficking victims.

-- Engage governments of destination countries/territories on the safe repatriation of trafficking victims and the prosecution of their traffickers.

-- Ensure trafficking victims are not subject to criminal punishment for acts committed as a result of being trafficked.

-- Continue to expand and strengthen the anti-trafficking national network and localized taskforces comprised of social organizations, law enforcement entities, and government agencies to facilitate assistance to victims when identified.

Prevention

--Work closely with destination countries on the investigation and prosecution of traffickers of Philippine nationals abroad.

--Develop and implement methods to measure and address domestic labor trafficking in the Philippines.

--Conduct anti-trafficking awareness campaigns directed at domestic and foreign clients of the sex trade in the Philippines to reduce the demand for commercial sex acts.

-- Encourage senior government officials to use public forums to address the human trafficking problem, and encourage

provincial and local officials to regularly educate and warn the general public about trafficking.

--Dedicate increased funding for the Inter-Agency Council Against Trafficking (IACAT) and improve anti-trafficking coordination between government agencies.

-- Continue to train police and immigration officials, judges, elected officials, and foreign service officers on how to protect and assist trafficking victims.

--Continue to inform departing workers of their rights while working abroad, emphasizing obligations of employers toward foreign domestic workers and other laborers, and highlighting assistance available to workers if they find themselves a victim of trafficking.

-- Continue to work closely with non-governmental organizations and other international organizations on trafficking in persons.

(End non-paper)
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